

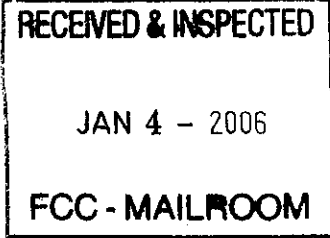
CGTB-CC-0202

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December 30, 2005



VIA FEDERAL EXPRESS

Secretary
Federal Communications Commission
Office of the Secretary
9300 East Hampton Drive
Capitol Heights, MD 20743

ATTN: Media Bureau

RE: Petition for Exemption From Closed Captioning Requirements Submitted by
Alaska On-Line - Conversations with Red Boucher

Dear Secretary:

Transmitted herewith on behalf of Alaska On-Line - Conversations with Red Boucher ("AOL") is an original and three copies of its Petition for Exemption From Closed Captioning Requirements submitted pursuant to section 79.1 (f) (2) of the Commission's Rules and Regulations.

AOL respectfully requests that the third enclosed copy of this petition, marked "COPY", be stamped as received and returned to the undersigned in the enclosed self-address stamped envelope.

Should any question arise concerning this matter, kindly contact the undersigned directly.

Respectfully Submitted,

ALASKA ON-LINE - CONVERSATIONS WITH RED BOUCHER

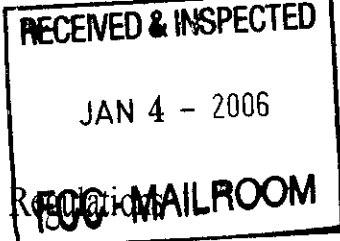


By: Lara Boucher, H.A. Boucher & Associates

LVB:lb

Enclosures (4)

cc: Cyd Terhune, KTVA
Betty Worthington, KAKM



RE: Request For Exemption From Section 79.1 of the Commission's Rules and Regulations

To: Media Bureau

PETITION FOR EXEMPTION FROM CLOSED CAPTIONING REQUIREMENTS

Alaska On-Line – Conversations with Red Boucher (“AOL”), a video programming provider within the meaning of section 79.1 (a) (3) of the Commission's Rules and Regulations, 47 C.F.R. Sec. 79.1 (a) (3), pursuant to section 79.1 (f) of the Commission's Rules and Regulations hereby submit this Petition for Exemption From Closed Captioning Requirements on the basis of undue burden (“Petition”). In support of its Petition, AOL shows and states as follows.

I. The Petitioner (“AOL”)

AOL is a half-hour “Larry King Live” type of talk show consisting of a host and one or two guests sitting in close proximity at a desk or table. Topics are of various interests to Alaskans. Because of its formatting, camera shots are directly on the speaker and are usually very close up with the speaker's face encompassing the majority of the frame.

AOL began operation in 1992 during a particular political campaign in which information regarding the issues and the candidates were not reaching the villages in rural Alaska sufficiently; frustrated by the disadvantage of many Alaskans to make informed decision regarding the state's future, former legislator and Lieutenant Governor H.A. Red Boucher decided to create and air a series of interviews that would give Alaskans – particularly those in the rural villages where there are little or no other means of public forum – an opportunity to hear non-partisan commentary on the issues from each candidate before going to the polls.

After the election that year, Mr. Boucher stopped airing the program. However he encountered considerable objection from the audience at large, primarily Alaska's rural Native communities, so he decided to continue providing AOL to Alaskans. Since then, the program discusses a variety of topics of interest to Alaskans – topics that may affect the quality of life for Alaskans, especially rural Alaskans. In many cases, AOL still remains the only means by which those Alaskans receive that particular information. Amongst other interesting topics, it remains a very popular forum for presenting political issues in a non-partisan manner – getting clear information to those who need it. Although the topics discussed during AOL are of interest to Alaskans, the show's main appeal is its host, long-time respected and trusted Alaskan, Red Boucher. For this, AOL has an established loyal following of regular viewers, interested participants (interviewees) and production volunteers. Past episodes are even held in archive at the Consortium Library in Fairbanks and Alaska Moving Image Preservation Association in Anchorage because of their value to Alaska history and culture.

Mr. Boucher, as stated before, is a long-time Alaskan with a passion and dedication to public service and rural communication. He has proven his dedication to Alaskans when after retiring from 20 years of service in the U.S. Navy in the 1950's, at the urging of

former President John F. Kennedy, he moved to Alaska, bought a piece of land and “got involved”. Since then he has fought for fairness and advocated on behalf of his community as Mayor of Fairbanks, Lieutenant Governor, and state legislator. After retiring from public service, he continued to lead the way in rural development through his passion for communications. Even at the current age of 84, Red continues to spark a fire in people for current issues and technologies and encourages them to be involved in making their communities a better place for all people of generations – AOL being the primary venue for this.

Because of Red’s report and the nature of AOL, AOL is made possible by donated services, use of equipment and space. The space required for the set for AOL is provided free of charge as was the set design, props and materials. The use of all the production equipment including but not limited to cameras, microphones, lights, and mixers are also provided free of charge. The graphics, sound and camera crews are all volunteers and the technical director is minimally compensated to cover his costs – all because they believe in the mission of the program and for their admiration of Mr. Boucher. Because of high costs associated with production and the subsequent donated services required to produce AOL, it is in essence taped “live”, with no editing or post-production beyond duplication for distribution.

II. Nature and Costs of the Closed Captioning, and Financial Resources of the Program Owner

Because of the nature of its programming, AOL, is essentially all “live”, unscripted with no post-production editing. A month’s worth of episodes (5) are taped in a single day. Repeatability of the programming is emphasized so that once distributed the stations may air programs repetitiously at their discretion; all sponsorships are Public Service Announcements with no call to action.

As of yet AOL has yet to find services available for on-line captioning in Alaska. In-house captioning and encoding services would not be a viable option as the costs of equipment and skill required are beyond AOL’s existing resources and the capabilities of the volunteer staff. As the Commission is well aware, real-time captioning vastly increases the cost of captioning to the program provider. Off-line captioning without scripts is also unavailable in Alaska, requiring AOL to send its tapes out of state for captioning and encoding. AOL has requested, but has yet to receive, specific quotes for captioning and encoding it’s programming, however through data obtained in researching this matter, it would not be unreasonable to apply an average of \$450 per each half-hour program for “pop-on” closed captions. AOL shoots approximately 40-45 programs per year. At this rate, that would increase production costs for upcoming years by approximately \$20,000.

The costs for making already-distributed programs compliant are exceedingly more. According to information provided on National Captioning Institute, Inc.’s (“NCI”) website, *“Up to 16 employee hours are required to provide pop-on captions for a one-*

hour prerecorded program..." Multiplying 40-45 half-hour programs shot over a 13-year period to date would calculate to approximately 260 hours of past programming hours needing to be captioned, which equals up to 4,160 employee hours for captioning and encoding services. This alone would cost upwards of \$200,000, not to mention the additional in-house costs associated with the process.

NCI's website also states regarding the process of captioning that, "*...the broadcaster or producer provides NCI with a duplicate videocassette of the program that includes time code that exactly matches the master*". This alone creates a logistical and financial "undue burden" to the program owner because masters of previously distributed programs have been reused in order keep costs down. In other words, not all masters existed for all programs. It would be virtually impossible and beyond the financial and logistical resources of AOL and its volunteer staff, to recall all previously distributed copies, consolidate, remaster, caption, encode, recopy and redistribute more than 2,600 tapes.

Even were obtaining scholarships, grants, or sponsorships a realistic possibility for AOL, seeking such sponsorships or grants is a task that is beyond the capability of AOL's current volunteer staff. AOL's current volunteer staff has neither the training nor the time to spend seeking marketing avenues or editing programs (to reflect any changes in sponsors) once they have been distributed. There is little likelihood that the income generated by sponsors or grants obtained by hiring a skilled employee or contractor would cover the cost of their employment or services. As mentioned above, the majority of the costs associated with producing AOL are covered by donated services, use of equipment and gifts in-kind. Having to provide closed captioning and encoding services in-house or purchase services from an out-of-state provider would increase to the cost of production by at least 100 percent.

III. Type of Operation of the Program Owner

In making a determination of whether complying with the captioning requirements impose an "undue burden" on a program provider the Commission must also evaluate the benefits to the hearing impaired promised by closed captioning the program. Considering the nature of the programming, being a talk show with close frames, no background sounds or voice-overs, AOL is already largely accessible to the portion of the hearing impaired community who possess lip-reading skills; the only time there is voice-over, such as in the introduction, text accompanies the voice; and text of the name of the host and the guests, along with who the guests represent (often times a self-explanation of the subject) appears several times throughout the program. Please also consider the fact that AOL has an established following of loyal viewers and has not received any complaints to date as to not having captioning in its programming. As mentioned before, Red Boucher has a history of fairness and advocacy for those who may not share equal opportunities. However, there is no question that closed captioning AOL's programming will impose a disproportionate burden on the petitioner without a proportional benefit to hearing impaired viewers.

Clearly, the benefit to value ratio of providing closed captioning programming is significantly less, and the financial and logistical burden of providing closed captioning programming significantly more, if AOL is providing captioning for a smaller minority of AOL's potential audience. The hearing impaired are bound to be a much smaller minority of the total audience viewing its programming during non-exempt or non-overnight hours. Forcing AOL to caption programming, which is already accessible to a considerable portion of the hearing impaired during the limited number of hours and for the limited number of viewers that are watching AOL programming during non-exempt hours imposes a crushing burden on AOL with little benefit to the hearing impaired.

IV. The Impact of the Operation of the Program Owner

The burden which would be imposed on AOL to caption its programming is grave. Captioning of any kind, open or closed would impose at least a 100 percent increase in the cost of program production. That kind of increase in production costs would deem the program unviable and the program would have to be canceled – much to the dismay of its current audience following and the Boucher family alike.

AOL is the primary source of income for an 84-year old retired WWII veteran and his wife. Without AOL the Boucher family's income would be severely reduced – a heavy “undue burden” indeed!

V. Conclusion

The substantial “undue burden” of providing closed captioning for AOL programming would cause the program to fail entirely, thus resulting in a severe “undue burden” for one family and a detrimental loss of a much loved cultural element for many Alaskan communities without much benefit to the hearing impaired.

Wherefore, the foregoing considered, Alaska On-Line – Conversations with Red Boucher, respectfully requests that the Commission declare it exempt from complying with the closed captioned requirements of section 79.1 of the Commission's Rules.

Respectfully Submitted,

ALASKA ON-LINE – CONVERSATIONS WITH RED BOUCHER



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